

Appl. No. 10/620,718  
Amdt. dated Dec. 26, 2008  
Reply to Office Action of June 25, 2008

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figure 7, specifically changing reference numeral 712 to 212. This sheet replaces the original sheet including Figures 7 and 8.

Attachment:      Replacement Sheet

## **REMARKS/ARGUMENTS**

Claims 2-26 and 28-30 are currently pending in the application. Claims 2-26 and 28 were rejected in the final Office Action mailed June 25, 2008 (hereinafter referred to as "Office Action"). A Request for Continued Examination and a Petition for a three-month extension of time are being filed herewith. Moreover, applicant respectfully submits that this response is timely filed on Friday, December 26, 2008 because the extended due date of December 25, 2008 fell on a federal holiday (Christmas Day). In view of the following remarks and amendments, applicant respectfully request a timely Notice of Allowance be issued in this case.

### ***Double Patenting***

Claims 2-226 and 28-30 were rejected under nonstatutory obviousness-type double patenting as being in conflict with claims 2-23, and 26-28 of U.S. Patent Application No. 10/620,904. Claims 2-7, 10-18, 21-26 and 28-30 were rejected under nonstatutory obviousness-type double patenting as being in conflict with claims 2-22 of U.S. Patent Application No. 10/620,903. Applicant respectfully submits that these rejections are provisional and not absolute since no claims have been allowed in the cited patent applications. Applicant respectfully submits that appropriate action (amendment, cancellation or the filing of a terminal disclaimer) will be taken if the double patenting rejections remain after the allowance of any applicable claims.

### ***Objections to the Drawings***

The Office Action objected drawings filed on February 4, 2008, as failing to comply with 37 CFR 1.84(p)(4) because reference characters "212" (fig. 2A) and "712" (fig. 7) have been used to designate "discount price." The attached amended Figure 7 changes reference numeral 712 to 212. Applicant respectfully requests reconsideration and withdrawal of the objection.

### ***Claim Rejections under 35 U.S.C. § 103(a)***

Claims 2-10, 24 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Care Entrée (<http://web.archive.org/web/200102025005600/careentree.com>, 2001), in view of Lipton, et al. ("*Pharmacy Benefit Management Companies: Dimensions of Performance*", Annual Review of Public Health, Palo Alto: 1999, Vol. 20, p. 361) (hereinafter referred to as "Lipton"), further in view of Goch ("*A New Card Deal*," Best's Review, Oldwick, July 2002, Vol. 103(3), p. 73) (hereinafter referred to as "Goch"). Applicant respectfully submits that claims 24, 2-10 and 28, as amended, are patentable over the cited references for at least the reasons described below.

***Claims 24-26 and 28-30***

The Office Action indicted that paragraphs 8-9 (page 2) of Care Entrée teaches “incentives with a member multi-level marketing network” (page 5, line 1). Moreover, the Office Action indicted that the incentives are “doctors furnished drastic savings . . . Care Entrée passes the same savings on to our members” (page 17, lines 15-18).

Claims 24-26 and 28-30 have been amended to recite that “one of the incentives comprises paying a portion of each received membership fee into a multi-level marketing matrix.” This amendment is supported at least in paragraphs 64 and 66 of the Specification. Applicant respectfully submits that the cited references do not disclose, teach or suggest “one of the incentives comprises paying a portion of each received membership fee into a multi-level marketing matrix” as recited in claims 24-26 and 28-30.

Moreover, applicant respectfully submits that it would not be obvious to modify the cited reference to include “paying a portion of each received membership fee into a multi-level marketing matrix” because all of the fees paid by the members in the cited references are paid to the network provider or the doctors. The members (individual participants) of the cited references do not receive any portion of another member’s membership fee. Such an incentive is contrary to the business model set forth in the cited references. Since “the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious” (MPEP Section 2143.01 (VI)).

For at least the reasons stated above, applicant respectfully submits that Care Entrée, Lipton and Goch, either alone or in combination, do not disclose, teach or suggest every element recited in claims 24-26 and 28-30. Accordingly, applicant respectfully submits that claims 24-26 and 28-30 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicant respectfully requests that the rejection of claims 24-26 and 28-30 be withdrawn.

***Claims 2-9 and 12-23***

Applicant respectfully submits that claims 2-9 and 12-23 depend from claim 24, as amended, which is allowable for the reasons stated above, and further distinguish over the cited references. Claims 2-9 and 12-23 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claims 2-9 and 12-23 be withdrawn.


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***Conclusion***

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 2-26 and 28-30, as amended, are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: December 26, 2008

Respectfully submitted,  
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